**DA 23-292**

**Released: April 4, 2023**

**DOMESTIC SECTION 214 APPLICATION FILED FOR THE TRANSFER OF CONTROL OF** **INTERMOUNTAIN INFRASTRUCTURE GROUP, LLC FROM JEFFREY YOUNT TO WRA II-PIONEER (S) LLC**

**NON-STREAMLINED PLEADING CYCLE ESTABLISHED**

**WC Docket No. 23-85**

**Comments Due: April 18, 2023**

**Reply Comment Due: April 25, 2023**

By this Public Notice, the Wireline Competition Bureau seeks comment from interested parties on an application filed by Jeffrey Yount (Yount), Intermountain Infrastructure Group, LLC (IIG), and WRA II-Pioneer (S) LLC (WRA II) (collectively, Applicants), pursuant to section 214 of the Communications Act of 1934, as amended, and sections 63.03-04 of the Commission’s rules,[[1]](#footnote-3) requesting consent to transfer control of IIG from Yount to WRA II.[[2]](#footnote-4)

IIG, a Delaware limited liability company, provides long-haul, regional, and metro fiber network services.[[3]](#footnote-5) IIG provides competitive telecommunications services in California, Illinois, Montana, Nevada, Oregon, and Washington.[[4]](#footnote-6) IIG wholly owns Travail Networks Canada Inc. (Travail), a Canadian corporation that provides facilities-based telecommunications services.[[5]](#footnote-7)

Intermountain Holdings LLC (Holdings), a Delaware holding company, owns 100% of the voting and equity interests in IIG.[[6]](#footnote-8) Holdings is directly held by Yount, Brady Adams (Adams), and Post Roast Special Opportunity Fund II IIG Inc. (PRSOF II).[[7]](#footnote-9) Yount, a U.S. citizen, is the President and Chief Executive Officer of IIG and Holdings.[[8]](#footnote-10) Yount exercises actual working control of IIG through his ownership of approximately 30.5% of the equity and voting interests in Holdings.[[9]](#footnote-11) Adams, a U.S. citizen, currently holds an approximate 10% economic interest in Holdings, and PRSOF II currently holds an approximate 37.1% economic interest in Holdings.[[10]](#footnote-12)

Applicants state that PRSOF II is a U.S. investment company that is directly owned by Post Road Special Opportunity Fund (SOF) II LP (100% voting and equity interest), which, in turn, is directly owned by Post Road SOF GP II LLC[[11]](#footnote-13) (100% voting interest and approximately 2% equity interest), both Delaware entities.[[12]](#footnote-14) The direct voting interest in Post Road SOF GP II LLC is held by Birch Hill Capital LLC (50%), a Delaware investment company,[[13]](#footnote-15) and Seventh Avenue Capital Group II LLC (50%), a Connecticut investment company.[[14]](#footnote-16) The direct and indirect equity interest in Post Road SOF GP II LLC is held by Birch Hill Capital LLC (approximately 38%) and Seventh Avenue Capital Group LLC (approximately 22%).[[15]](#footnote-17) Michael Bogdan, a U.S. citizen, holds 100% of the voting and equity interest in Birch Hill Capital LLC.[[16]](#footnote-18) Additionally, Kevin Davis, a U.S. citizen, holds 100% voting and equity interests in Seventh Avenue Capital Group II LLC.[[17]](#footnote-19)

Applicants state that WRA II, a Delaware limited liability company, is an acquisition vehicle that was created for the purposes of the proposed transaction.[[18]](#footnote-20) WRA II is owned by certain investment funds managed by Wafra Inc. (Wafra), a global alternative investment manager.[[19]](#footnote-21) Wafra is indirectly and beneficially owned by the Public Institution for Social Security, a public pension fund that operates as an autonomous agency that is controlled by the Government of Kuwait.[[20]](#footnote-22) Wafra is also affiliated with LOGIX Fiber Networks (LOGIX).[[21]](#footnote-23) Applicants state that LOGIX Communications, LP, Alpheus Communications, LLC, and Alpheus Data Services L.L.C. provide, as LOGIX, telecommunications services in Kansas, Missouri, Oklahoma, and Texas.[[22]](#footnote-24) LOGIX provides telecommunications services as a competitive local exchange carrier, primarily in Texas and Oklahoma.[[23]](#footnote-25) LOGIX also provides resold local exchange services in Kansas and Missouri where it is authorized to provide local exchange and/or exchange telecommunications services.[[24]](#footnote-26) Applicants maintain that LOGIX does not provide service in any areas served by IIG.[[25]](#footnote-27)

Pursuant to the terms of the proposed transaction, IIG will remain a direct and wholly-owned subsidiary of Holdings.[[26]](#footnote-28) However, according to Applicants, Yount will relinquish working control of Holdings and convert his equity ownership into non-voting Junior Preferred Units.[[27]](#footnote-29) As a result, Yount will be entitled to participate in cash distributions in an amount equal to between 15.2% and 17.8%.[[28]](#footnote-30) Additionally, Holdings will issue senior preferred units to WRA II and PRSOF II in an amount equal to between 60% and 65%, with Wafra entitled to receive between 19.8% and 21.4%.[[29]](#footnote-31) Applicants further state that Holdings will be governed by a seven-member Board of Managers designated by Yount, PRSOF II, and WRA II.[[30]](#footnote-32)

Applicants state that, following consummation of the proposed transaction, WRA II will be directly and indirectly held by WRA II-Pioneer (B) LLC (WRA II (B)), a Delaware holding company.[[31]](#footnote-33) WRA II (B) is controlled by Wafra Real Assets & Infrastructure Fund II LP, a Bermuda investment business, which, in turn, is controlled by WRAIF II GP LLC, a Delaware investment business.[[32]](#footnote-34) Economic ownership of WRAIF II GP LLC is held by Wafra Advisors LLC (60% economic interest) and Wafra AID LLC (40% economic interest), and control of WRAIF II GP LLC resides with its managing member, Wafra AID Inc., a Delaware holding company.[[33]](#footnote-35) Wafra AID Inc. is wholly owned by Wafra Funds GP Inc., which, in turn is wholly owned by Wafra Inc., both Delaware entities.[[34]](#footnote-36) Wafra Inc. is wholly owned by Wafra InterVest Corporation Ltd., a Bermuda holding company, which, in turn, is wholly owned by Wafra International Investment Company K.S.C.C. (Wafra International), a Kuwait holding company.[[35]](#footnote-37) Wafra International and economic ownership of WRAIF II is held by the Public Institution for Social Security, an autonomous agency of the Government of Kuwait.[[36]](#footnote-38) Applicants state that no additional individuals or entities will own or control 10% or more equity or voting interest, directly or indirectly, in IIG following consummation of the proposed transaction.[[37]](#footnote-39)

Applicants request streamlined treatment of the proposed transaction under the Commission’s rules and assert that a grant of the application would serve the public interest, convenience, and necessity.[[38]](#footnote-40) Because the proposed transaction is more complex than those accepted for streamlined treatment, and in order to analyze whether the proposed transaction would serve the public interest, we accept the Application for non-streamlined processing.[[39]](#footnote-41)

Referral to Executive Branch Agencies. Pursuant to Commission practice, the Application and the associated international application, FCC File Nos. ITC-214-20191115-00181 and ITC-214-20191220-00200, are being referred to the relevant Executive Branch agencies for their views on any national security, law enforcement, foreign policy, or trade policy concerns related to the foreign ownership of the Applicants.[[40]](#footnote-42)

Domestic Section 214 Application Filed for the Transfer of Control of

Intermountain Infrastructure Group, LLC from Jeffrey Yount to

WRA II-Pioneer (S) LLC,WC Docket No. 23-85 (filed Mar. 6, 2023).

**GENERAL INFORMATION**

The application identified herein has been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any application if, upon further examination, it is determined to be defective and not in conformance with the Commission’s rules and policies.

Interested parties may file comments **on or before April 18, 2023**, and reply comments **on or before April 25, 2023**. Comments may be filed using the Commission’s Electronic Comment Filing System (ECFS) or by paper.

* Electronic Filers:  Comments may be filed electronically by accessing ECFS at <http://apps.fcc.gov/ecfs/> .
* *Paper Filers*: Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.
	+ Filings can be sent by commercial overnight courier or by first-class or overnight U.S. Postal Service mail.[[41]](#footnote-43) All filings must be addressed to the Commission’s Secretary, Office of the Secretary, Federal Communications Commission.
	+ Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701. U.S. Postal Service first-class, Express, and Priority mail must be addressed to 45 L Street, NE, Washington, DC 20554.

People with Disabilities:  We ask that requests for accommodations be made as soon as possible in order to allow the agency to satisfy such requests whenever possible. Send an email to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at (202) 418-0530.

**In addition, e-mail one copy of each pleading to each of the following:**

1. Myrva Charles, Competition Policy Division, Wireline Competition Bureau, myrva.charles@fcc.gov;
2. Merry Wulff, Competition Policy Division, Wireline Competition Bureau, merry.wulff@fcc.gov;
3. David Krech, International Bureau, david.krech@fcc.gov; and
4. Jim Bird, Office of General Counsel, jim.bird@fcc.gov.

The proceeding in this Notice shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission’s *ex parte* rules. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter’s written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b), 47 CFR § 1.1206(b). Participants in this proceeding should familiarize themselves with the Commission’s *ex parte* rules.

To allow the Commission to consider fully all substantive issues regarding the application in as timely and efficient a manner as possible, petitioners and commenters should raise all issues in their initial filings. New issues may not be raised in responses or replies.[[42]](#footnote-44) A party or interested person seeking to raise a new issue after the pleading cycle has closed must show good cause why it was not possible for it to have raised the issue previously. Submissions after the pleading cycle has closed that seek to raise new issues based on new facts or newly discovered facts should be filed within 15 days after such facts are discovered. Absent such a showing of good cause, any issues not timely raised may be disregarded by the Commission. For further information, please contact Dennis Johnson, Wireline Competition Bureau, (202) 418-0809.

For further information, please contact Myrva Charles at (202) 418-1506 or Merry Wulff at merry.wulff@fcc.gov.

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1. *See* 47 U.S.C. § 214; 47 CFR §§ 63.03-04. [↑](#footnote-ref-3)
2. Application of Jeffrey Yount, Intermountain Infrastructure Group, LLC, and WRA II-Pioneer (S) LLC for Authority to Transfer Control of Section 214 Carriers, WC Docket No. 23-85 (filed Mar. 3, 2023) (Application). Applicants also filed applications for the transfer of authorizations associated with international services. Any action on this domestic section 214 application is without prejudice to Commission action on other related, pending applications. [↑](#footnote-ref-4)
3. *Id.* at 4. [↑](#footnote-ref-5)
4. *Id.* at 4, 24. [↑](#footnote-ref-6)
5. *Id.* at 3. [↑](#footnote-ref-7)
6. *Id.* at 2, 5. [↑](#footnote-ref-8)
7. *Id.* at 12-13; Exh. A. at 29 (Pre-Transaction Ownership Diagram). [↑](#footnote-ref-9)
8. *Id.* at 5. [↑](#footnote-ref-10)
9. *Id.* at 5; Exh. A. at 29. Applicants state that Yount is permitted to appoint three-fourths of Holdings’ managers. *Id.* [↑](#footnote-ref-11)
10. *Id.* at 12; Exh. A. 29. [↑](#footnote-ref-12)
11. Applicants state that Post Road Special Opportunity Fund II LP and its owners (Post Road) are the majority owners of Archtop Fiber LLC. *Id.* at 24. Domestic 214 applications for transfer of control of Germantown Telephone Company, Inc. and Valstar, Inc (together, GTel Licensees) and Hancock Telephone Company, Inc. and Hancock Long Distance, Inc. (together, Hancock Licensees) to Archtop Fiber LLC are currently pending. *Id.* at 24-25; *see also Domestic 214 Applications filed for Transfer of Control of Germantown Telephone Company, Inc. and Valstar, Inc. to Archtop Fiber LLC, - Hancock Telephone Company, Inc. to Archtop Fiber LLC,* WC Docket Nos. 22-421, 23-29, Public Notice, DA 23-147 (WCB 2023). [↑](#footnote-ref-13)
12. *Id.* at 12; Exh. A. at 30 (Pre-Transaction Organizational Chart of PRSOF II IIG Inc.). [↑](#footnote-ref-14)
13. *Id.* at 13; Exh. A. at 30. [↑](#footnote-ref-15)
14. *Id.* [↑](#footnote-ref-16)
15. *Id.* at 13. Applicants state that, other than the equity interests in Post Road Special Opportunity Fund II held by Post Road SOF II LLC, Birch Hill Capital LLC, and Seventh Avenue Capital II LLC, the remaining pre-transaction and post-transaction equity interests in Post Road SOF II LP are held by passive limited partners, none of which individually hold equity interests that equate to an indirect economic interest of 10% or more. *Id.* at 13, 16; Exh. A. at 32 (Post-Transaction Organizational Chart of PRSOF II IIG Inc.). [↑](#footnote-ref-17)
16. *Id.* at 13; Exh A. at 30, 32 [↑](#footnote-ref-18)
17. *Id.* at 13-14; Exh. A. at 30, and 32. [↑](#footnote-ref-19)
18. *Id.* at 5. [↑](#footnote-ref-20)
19. *Id*. [↑](#footnote-ref-21)
20. *Id.* at 5, 20. [↑](#footnote-ref-22)
21. *Id.* at 5. [↑](#footnote-ref-23)
22. *Id.* at 5, 19. [↑](#footnote-ref-24)
23. *Id.* at 24. [↑](#footnote-ref-25)
24. *Id.*  [↑](#footnote-ref-26)
25. *Id.*  [↑](#footnote-ref-27)
26. *Id.* at 2. [↑](#footnote-ref-28)
27. *Id*. [↑](#footnote-ref-29)
28. *Id.* at 2, 14. [↑](#footnote-ref-30)
29. *Id.* at 6-7; Exh. A at 31 (Post-Transaction Ownership Diagrams). [↑](#footnote-ref-31)
30. Application at 6. Applicants state that, following consummation of the proposed transaction, each entity will have the right to designate the following number of mangers: Yount (2 managers), PRSOF II (1 manager), and WRA II (3 managers). WRA will also have the right to nominate a fourth manager, subject to approval by Yount and PRSOF II. *Id.* [↑](#footnote-ref-32)
31. *Id.* at 17. [↑](#footnote-ref-33)
32. *Id.* at 18. [↑](#footnote-ref-34)
33. *Id.* at 18-19. [↑](#footnote-ref-35)
34. *Id.* at 19. [↑](#footnote-ref-36)
35. *Id.* at 19-20; Exh. A. at 33 (Post-Transaction Organizational Chart of WRA II-Pioneer (S) LLC). [↑](#footnote-ref-37)
36. *Id.* at 20. [↑](#footnote-ref-38)
37. *Id.* [↑](#footnote-ref-39)
38. *See id.* at 3-4, 7-9. [↑](#footnote-ref-40)
39. 47 CFR § 63.03(c)(1)(v). [↑](#footnote-ref-41)
40. 47 CFR § 1.40001; *see also* *Process Reform for Executive Branch Review of Certain FCC Applications and Petitions Involving Foreign Ownership*, IB Docket 16-155, Report and Order, 35 FCC Rcd 10927 (2020), Erratum (Appendix B — Final Rules), DA 20-1404 (OMD/IB rel. Nov. 27, 2020); *see also Rules and Policies on Foreign Participation in the U.S. Telecommunications Market; Market Entry and Regulation of Foreign- Affiliated Entities*, IB Docket Nos. 97-142 and 95-22, Report and Order and Order on Reconsideration, 12 FCC Rcd 23891, 23918-19, paras. 61-63 (1997), recon. denied, 15 FCC Rcd 18158 (2000). [↑](#footnote-ref-42)
41. Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID-19. *See FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Policy*, Public Notice, 35 FCC Rcd 2788 (OS 2020). [↑](#footnote-ref-43)
42. *See* 47 CFR § 1.45(c). [↑](#footnote-ref-44)